

SPECIAL COUNCIL MEETING

OCTOBER 8, 2013

The Special Council Meeting of the Council of the County of Kaua'i was called to order by the Council Chair Jay Furfaro at the Council Chambers, 4396 Rice Street, Room 201, Lihu'e, Kaua'i, on Tuesday, October 8, 2013 at 2:24 p.m., after which the following members answered the call of the roll:

Honorable Tim Bynum
Honorable Gary L. Hooser
Honorable Ross Kagawa
Honorable Nadine K. Nakamura
Honorable Mel Rapozo
Honorable JoAnn A. Yukimura (*present at 2:26 p.m.*)
Honorable Jay Furfaro

APPROVAL OF AGENDA.

Mr. Rapozo moved for approval of the agenda as circulated, seconded by Ms. Nakamura, and carried by a vote of 6:0:1 (Ms. Yukimura was excused).

PUBLIC COMMENT.

Pursuant to Council Rule 13(e), members of the public shall be allowed a total of eighteen (18) minutes on a first come, first served basis to speak on any agenda item. Each speaker shall be limited to three (3) minutes at the discretion of the Chair to discuss the agenda item and shall not be allowed additional time to speak during the meeting. This rule is designed to accommodate those who cannot be present throughout the meeting to speak when the agenda items are heard. After the conclusion of the eighteen (18) minutes, other members of the public shall be allowed to speak pursuant to Council Rule 12(e).

Chair Furfaro: Now, accordingly to Rule E, we can take members' testimony. It will be allowed for a period of a total of eighteen (18) minutes on a first come, first served basis and therefore, allow each speaker to speaker for approximately three (3) minutes. This will be at the direction of the Chair. Do we have anybody that is signed up for Rule 13(e)?

JADE K. FOUNTAIN-TANIGAWA, Deputy County Clerk: Yes, we do. The first speaker is Jose Bulatao, Jr., followed by Camellia Ditch-Crosby.

Chair Furfaro: Thank you. Jose, you have the floor first. Go right ahead, sir.

There being no objections, the rules were suspended to take public testimony.

JOSE BULATAO, JR.: Good afternoon. My name is Jose Bulatao, Jr., from Kekaha. I am representing myself. I am from Kekaha and here in support of Ernie Pasion in his position as the County Auditor. I did write something down in back of my registration sheet, but I choose to speak extemporaneously from my heart to express or convey my feeling in support of Ernie's position as County Auditor. It is a position that came from the will of the people in an election asking

for the position of a County Auditor being a part of our County government. We had one when I was a child and that was done away with. Since the position was resurrected and since Ernie has been serving in that position, I think he has done his due diligence in performing his tasks. I find it so difficult to convey my feelings because I think this is a situation where there may be conflicting points of view and an *'ohana* it may be in terms of what can be done and how it should be done. But essentially, I think we need to clear the air and understand the importance of the position in terms of the way it serves all of us here on the island of Kaua'i. Regardless of how it is – no, I am sorry, I take that back. Because it is being done in such a way with integrity and because there needs to be that clarity, that transparency, and that accountability, in terms of getting to the root of the matter, as far as bringing to light what is being done right and what may be improved, what commendations there may be or what recommendations should be forthcoming, this is the essence of the Auditor's position. I implore you, I beg you, to do what is *pono*, to reflect on the work that has been accomplished, to look objectively at what Ernie has been able to do, what his capabilities are, what he has demonstrated in his life prior to that position, in that position, what you know of him and about him as he has worked with you in his prior positions here in the County *"ohana*. I ask you to think about what the valid outcomes would be in keeping him in that position because there are repercussions about how this is going to be dealt with because of the things connected with the decisions that are going to be made will impact all of us. I ask you to do the right thing by keeping Ernie in that position. Thank you very much.

Chair Furfaro: Thank you, Jose. Next speaker.

Ms. Fountain-Tanigawa: Next speaker is Camellia Ditch-Crosby.

Chair Furfaro: Camellia.

CAMELLIA DITCH-CROSBY: *Aloha* County Council members, Chairman Furfaro, and the viewing audience. My name is Camellia Ditch-Crosby, born and raised on Kaua'i, all of my life, sixty-seven (67) years and I am proud of it. Ernie Pasion, the County Auditor, is a fellow Church member who I am proud to be associated with. I often recall the nuns teaching us the slogan – wait, this is the wrong one. Sorry.

Chair Furfaro: You take a moment and I will bring a different speaker up and we will start over.

Ms. Fountain-Tanigawa: Council Chair, she was the last.

Chair Furfaro: She was the last for this? Well, then you are back on. Take your time to get your material.

Ms. Ditch-Crosby: Start all over?

Chair Furfaro: Yes, welcome back.

Ms. Ditch-Crosby: Sorry about that. Old age. *Aloha* County Council members, Chairman Furfaro, and viewing public. My name is Camellia Ditch-Crosby, born and raised on Kaua'i all of my life, sixty-seven (67) years. Ernie Pasion, County Auditor, is a fellow church member with whom I am proud to associate. Therefore, I am here today to testify on Ernie's behalf. I feel it is my duty

to speak my mind and concerns whenever I see something that is not *pono*. What is happening to Ernie is not *pono* so I am here today to join others who feel the same way I do. I watch many Council, Planning Department, and Police Commission meetings, as well as the Mayor's meetings in order to be an informed community member. I was caught by surprise when I heard that Ernie may lose his job for doing his job. I did some research and found that there is not one shred of evidence to support firing this dedicated, honest man from his position as the County Auditor. In my opinion, this is a case of whistle blowing, which ironically is what his job description says, right? I find it deplorable that this Council is thinking about dismissing Ernie. Since accepting the position, he and his staff have done a great job with the six (6) audits that they completed. He should be acknowledged for a job well-done plus a raise, not a job loss. What kind of message are you sending to other employees and the public? See no evil, speak no evil, hear no evil, or lose your job? Might it be a case of the Emperor has no clothes? Many in the community are so extremely tired of the politics they say. Nothing will change, no need speak out or vote anymore. In closing, many of us will know you by your actions and can take corrective action at the next election. I, like many of my *'ohana* and friends believe in honesty, transparency, and integrity. Ernie Pasion has those qualities. Thank you.

Chair Furfaro: Thank you very much for your testimony.
Madame Clerk, I believe we have no one else signed up?

There being no further testimony, the meeting was called back to order, and proceeded as follows:

Chair Furfaro: Am I correct, I have five (5) written communications? Is that correct?

Ms. Fountain-Tanigawa: One (1) that just came in, so it should be a total of six (6).

Chair Furfaro: We have approval of six (6). All members so note that we have received six (6) written communications. Thank you very much.

The following communications were received for the record:

1. Ditch-Crosby, Camellia, October 8, 2013
2. Herndon, Sandra, October 7, 2013
3. Isobe, Cecilia, October 8, 2013
4. Mickens, Glenn, October 8, 2013
5. Taylor, Ken, October 8, 2013
6. Ward, Elli, October 6, 2013

Chair Furfaro: To the Clerk's Office, I would like to have a County Attorney up to read our motion for Executive Session.

There being no objections, the rules were suspended.

JENNIFER S. WINN, Deputy County Attorney: Good afternoon,
Deputy County Attorney, Jennifer Winn.

EXECUTIVE SESSION:

ES-678 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(2) & (4) and Kaua'i County Charter Section 3.07(E), the Office of the County Attorney, on behalf of the Council, requests an Executive Session with the Council, to consider the hire, evaluation, dismissal, or discipline of an officer or employee or of charges brought against the officer or employee, where consideration of matters affecting privacy will be involved, provided that if the individual concerned requests an open meeting, an open meeting shall be held; and to consult with the Council's attorney regarding questions and issues pertaining to the Council's and County's powers, duties, privileges, immunities, and liabilities as it relates to this agenda item, and to deliberate and take such action as deemed appropriate.

There being no objections, the meeting was called back to order, and proceeded as follows:

Chair Furfaro: Thank you very much. Members, I would like to have a motion to go into Executive Session.

Ms. Yukimura moved to convene in Executive Session for ES-678, seconded by Mr. Rapozo.

Chair Furfaro: I have a motion from Councilmember Yukimura and a second by Mr. Rapozo. Any further discussion?

Ms. Fountain-Tanigawa: Did you want to have the public testimony now?

Chair Furfaro: Anyone else that wishes to give public testimony? Please raise your hands high.

Ms. Fountain-Tanigawa: Council Chair we have a list of five (5) speakers.

Chair Furfaro: I see we have them right now. I just counted the, five (5). Go ahead and make the first call, please.

Ms. Fountain-Tanigawa: First registered speaker is Glenn Mickens.

GLENN MICKENS: For the record Glenn Mickens. Thank you, Jay. Glad to be back in the United States.

Chair Furfaro: Are you going to speak to us in Spanish?

Mr. Mickens: No gracias. Before I start my testimony, let me say, that this Ernie Pasion issue is one of the most critical problems that Kaua'i needs to address. If we cannot keep good, competent, and honest people in key government positions of importance because of political interference than our system will never be able to improve. This obviously is my opinion. You may not agree, but it is my opinion. The longer this debacle continues to get rid of our Auditor, Ernie Pasion, one of the finest and most competent people this County has hired, the more transparent it becomes that a conspiracy is taking place involving members of Council, the County Attorney, and the Mayor. It should be overwhelming embarrassing for any administrator or Council person to be part of

this scheme as the whole plot will be a lose-lose situation for those involved. There is nothing a shred of negative evidence to point to the firing of Ernie Pasion who has served with distinction as the Auditor for four (4) years. One (1) claim with no factual basis that Mr. Pasion did not have the qualification for the Auditor's position. Pasion applied for the job accordingly as provided in the County Charter. The County Charter is very clear, thus he was unanimously hired by a vote of seven (7) Councilmembers who obviously decided he was the best qualified, but now feel – some of them, that he should be fired. Thus, should it not follow that those members who want him dismissed and I believe only Jay, you and Tim were the only ones here, who participated in selecting him for the position were incompetent in hiring him should also be fired? Another claim for dismissal was that Ernie failed to do his job properly. Wow, the Association of Local Government Auditors recently gave him and his staff a superior peer-review outside audit or accreditation rating for the six (6) audits he did and those who hired him say he has not done his job properly. Talk about a contradiction and stupidity. Ironically, the public overwhelming supports our Auditor, his staff, and the superior job they have done. Only those in power who got involved in this tangled web of irregularity resent the unbiased job that Mr. Pasion has done because he uncovers and glaringly points out the gross incompetence and the abuse of power the way our government is run. All of them expected a lap dog when he was hired, but they got a person who represents the people and now they have to find a way to get rid of him. They should be ashamed of themselves. The Mayor and Council have cut the Auditor's budget by a radical thirty-two percent (32%) making it impossible for him to continue his fine work. This is just a back-door method to fire him and is obviously to everyone who followed this debacle. Putting this huge budget cut into perspective...

Chair Furfaro:

Three (3) minutes, Glenn.

Mr. Mickens: I am almost done. Putting this huge budget cut into perspective we find that the County is as a whole, had budget cuts, some Departments even increased of about three percent (3%) and have a healthy General Fund balance. There is no hiding their motive so purposely and stifle and incapacitate the Chartered operation of the Auditor's Office and they think that they can get away with it as if the public are all stupid and not to care. Well, they are grossly mistaken. Our hard earned money to pay the taxes to run the County is at stake. Hopefully before those in power can continue on their stealth course of dismissal, the public's outcry for justice will prevail and Ernie Pasion will be able to continue to improve the operation of our government. Thank you, Jay.

Chair Furfaro: Thank you, any questions for Glenn? Did you have your hand up Mr. Kagawa? How about you Mr. Rapozo, no? Mr. Bynum, you have the floor.

Mr. Bynum:

Who is "they?"

Mr. Mickens:
the Administration.

They, we are talking about the Council and

Mr. Bynum: This says, "A conspiracy is taking place involving some members of the Council, the County Attorney, and the Mayor." Wow.

Mr. Mickens:

Wow.

Mr. Bynum:

What is your basis for that?

to be something that is oriented with he did not do his job or could not do his job. But I think he did excellent jobs in exposing a lot of irregularities going on within our County system, everything from people not qualified for the work and the position. With that thought and the thought of finding "just cause" for a suspension or dismissal, that is a serious word "just cause" and do not let personalities be involved because that is not grounds for a dismissal according to what you heard from Judge Alfred Laureta. Thank you.

Chair Furfaro: Any questions for Mr. Rosa? Seeing none, thank you, Mr. Rosa. Is there anyone else signed up?

Ms. Fountain-Tanigawa: No further registered speakers.

There being no further testimony, the meeting was called back to order, and proceeded as follows:

Chair Furfaro: Members, we have a motion and a second. I would like to call for a roll vote to go into Executive Session.

The motion to convene in Executive Session for ES-678 was the put, and carried by the following vote:

FOR EXECUTIVE SESSION:	Bynum, Hooser, Kagawa, Nakamura, Rapozo, Yukimura, Furfaro	TOTAL - 7,
AGAINST EXECUTIVE SESSION:	None	TOTAL - 0,
EXCUSED & NOT VOTING:	None	TOTAL - 0,
RECUSED & NOT VOTING:	None	TOTAL - 0.

Ms. Fountain-Tanigawa: Seven (7) ayes.

Chair Furfaro: Seven (7) ayes. Members, we will meet at five (5) minutes past 3:00 p.m. in our Executive Chambers. Thank you.

ADJOURNMENT.

There being no further business, the meeting was adjourned at 2:58 p.m.

Respectfully submitted,


JADE K. FOUNTAIN-TANIGAWA
Deputy County Clerk

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